

REMARKS

This Amendment is in response to the Office Action dated **November 16, 2007**.

Each issue in the Office Action is addressed below.

Drawings

(2)

The drawings were objected to under 37 CFR §183(a). The drawings must show every feature of the invention specified in the claims. Therefore, it is asserted in the rejection that the dual element design of claim 23 (with an element (having a passageway) between the side edges as claimed in claim 1, and the element further being a slider in the bag opening as set forth in claim 23) must be shown or the feature(s) canceled from the claim(s).

In response, claim 23 has been amended to remove the asserted “dual element design” of claim 23. As such, withdrawal of the objection is respectfully requested.

§112 Rejections

(3)

Claims 23-28 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. It is asserted that the claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is asserted that claim 1 sets forth an element having a passageway sealed to the first side edges of the bag portion. Claim 23 (dependent from claim 1) sets forth the element comprising a slider in the bag opening. It is asserted that the drawings and specification do not disclose the possibility of the element being both sealed to the first side edge and at the same time being a slider.

As mentioned above, claim 23 has been amended to remove the asserted “dual element design” of claim 23. As such, withdrawal of the rejection is respectfully requested.

(4)

Claims 23-28 were rejected under 35 U.S.C. §112, first paragraph, as failing to

comply with the enablement requirement. It is asserted that the claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1 sets forth an element having a passageway sealed to the first side edges of the bag portion. Claim 23 (dependent from claim 1) sets forth the element comprising a slider in the bag opening. It is asserted that the drawings and specification do not disclose the possibility of the element being both sealed to the first side edge and at the same time being a slider as such.

As mentioned above, claim 23 has been amended to remove the asserted “dual element design” of claim 23. As such, withdrawal of the rejection is respectfully requested.

(5)

Claims 23-28 were rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is asserted that claim 1 sets forth an element having a passageway sealed to the first side edges of the bag portion. Claim 23 (dependent from claim 1) sets forth the element comprising a slider in the bag opening. Examiner is unable to determine the positioning of the slider. For the purposes of examination, Examiner takes the position that there is a valve element comprising the slider as well as a valve element sealed to the first side edge, as this is the most comprehensive idea, although it should be noted that examiner does not find support in the specification for this embodiment.

As mentioned above, claim 23 has been amended to remove the asserted “dual element design” of claim 23. As such, withdrawal of the rejection is respectfully requested.

§102 Rejections

(6)

Claims 1, 2, 4, 6 and 7 are rejected under 35 USC §102(b) as being anticipated by Greene (US Re 30,045). A full account of the rejection is found on pages 5-6 of the Office Action.

In response, independent claim 1, on which claims 2, 6 and 7 depend, has been amended to further distinguish it from the cited reference. As shown above, claim 1 is directed to

a bag portion, a slider, a passageway through the slider to provide access between the bag interior and an area outside of the bag, and the valve positioned on the slider. All of these elements were previously contained in the claims, and therefore add no new matter. Claim 4 has been canceled. Withdrawal of the rejection is therefore respectfully requested.

(7)

Claims 1, 6 and 29 were rejected under 35 USC §102(b) as being anticipated by Ohtsubo (US 2002/0162767 A1). A full account of the rejection is found on page 6 of the Office Action.

In response, independent claim 1, on which claim 6 depends, has been amended to further distinguish it from the cited reference. Claim 29 has been canceled. Withdrawal of the rejection is therefore respectfully requested.

(8)

Claims 31 and 32 were rejected under 35 USC §102(b) as being anticipated by Savicki (WO 02/07628 A1). In Applicant's response, it is assumed that the Savicki publication number that is meant in the rejection is WO 02/076258. This is also assumed in the remaining rejections.

It is asserted in the rejection that Savicki discloses a slider (Fig 1, 134) for opening and closing a bag having opposed interlocking features (130, 132), the slider comprising a movable body in the bag opening, and further including a passageway in said body (Fig 3, 197) and means for opening and closing the passageway (198) comprising a one way valve, the one way valve going from the bag interior to the exterior. It is asserted that the passageway is configured to be coupled to a suction device, such as a user's mouth. A user, it is further asserted, pursing their lips could remove the air from the interior of the bag via the passageway in the slider.

Applicant respectfully disagrees. Claim 31, as amended, specifies that the valve and the passageway are configured to permit gas and liquid to be removed from the bag interior through the passageway when suction is applied to the passageway from the area outside of the bag. Support of the amendment is found on page 20, line 17, to page 21, line 11. The assertion in the rejection that a user of the bag of Savicki could apply suction to the valve using his mouth is

unfounded. Specifically, there is no mention in Savicki of applying suction to the valve, nor is there any mention of the possibility of using one's mouth to suck gas and liquid, or anything else, out through the valve. When the valve as described in Savicki is examined, it is clear that there is no realistic way to use one's mouth to suck fluid out through the valve. In order to function, the valve of Savicki needs to be pressed downward with the finger. It appears to be impossible to simultaneously press the top of the valve down with one's finger in order to open it, while simultaneously placing one's mouth over the valve in order to suck air out. Rather, in Savicki, the evacuation of the bag is performed by compressing the bag while pressing on the valve to allow air to escape. As such, the bag of Savicki does not have a "passageway being configured to be coupled to a suction device for removing gas and liquid from the bag", as required by the claim. For this reason, among others, Savicki does not anticipate the claimed invention. Withdrawal of the rejection is therefore requested.

(9)

Claim 3 was rejected under 35 USC §103(a) as being unpatentable over Greene (US Re. 30,045) in view of Ostensen et al. (US 4,725,268). A full account of the rejection is found on page 7 of the Office Action.

In response, as mentioned above, independent claim 1, on which claim 3 depends, has been amended to further distinguish it from the cited references. Withdrawal of the rejection is therefore respectfully requested.

(10)

Claims 23, 24 and 26-28 were rejected under 35 USC §103(a) as being unpatentable over Ohtsubo (US 2002/0162767 A1) in view of Savicki (WO 02/07628 A1). A full account of the rejection is found on pages 7-8 of the Office Action.

In response, as mentioned above, independent claim 1, on which claims 23-24 and 26-28, has been amended to further distinguish it from the cited references. Claim 23, as mentioned above, has also been amended in response. Also, the rejection fails for at least the reason that, as discussed above, Savicki does not teach a "passageway being configured to permit gas and liquid to be removed from the bag interior through the passageway when suction is

applied to the passageway from the area outside of the bag", as required by the claims.

Withdrawal of the rejection is therefore respectfully requested.

(11)

Claim 25 was rejected under 35 U SC. 103(a) as being unpatentable over Ohtsubo (US 2002/0162767 A1) in view of Savicki (WO 02/076258 A1) as applied to claims 23, 24 and 26-28 above and further in view of Plourde (US PG-Pub 2003/0235351). A full account of the rejection is found on pages 8-9 of the Office Action.

At least for the reasons discussed above in response to the rejection of numbered paragraph 10, the present rejection also fails. Withdrawal of the rejection is therefore respectfully requested.

Allowable Subject Matter

The allowability of claim 33 is acknowledged with appreciation.

Conclusion

In light of the above amendments and comments, the pending claims are believed to be in condition for allowance. Notification to that effect is requested. If the Examiner needs further information or wishes to discuss the present case, he is invited to contact the undersigned.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: May 16, 2008

By: /William E. Anderson II/
William E. Anderson II
Registration No.: 37766

6640 Shady Oak Dr., Suite 400
Eden Prairie, MN 55344-7834
Telephone: (952) 563-3000
Facsimile: (952) 563-3001